

Germany (Bavaria)

ABOLITION OF DROIT D'AUBAINE AND TAXES ON EMIGRATION

Convention signed at Berlin January 21, 1845

*Senate advice and consent to ratification, with an amendment,
March 15, 1845*¹

*Ratified by the President of the United States, with an amendment,
March 18, 1845*¹

Ratified by Bavaria September 3, 1845

Ratifications exchanged at Berlin November 4, 1845

Entered into force November 4, 1845

Proclaimed by the President of the United States August 15, 1846

Obsolete

9 Stat. 826; Treaty Series 16²

CONVENTION FOR THE MUTUAL ABOLITION OF THE DROIT D'AUBAINE, AND TAXES ON EMIGRATION, BETWEEN THE UNITED STATES OF AMERICA, AND HIS MAJESTY THE KING OF BAVARIA

The United States of America and His Majesty, the King of Bavaria, having agreed for the advantage of their respective citizens and subjects, to conclude a Convention for the mutual abolition of the droit d'aubaine and taxes on emigration, have named, for this purpose, their respective Plenipotentiaries, namely: the President of the United States of America has conferred full powers on Henry Wheaton, their Envoy Extraordinary, and Minister Plenipotentiary at the Royal Court of Prussia, and His Majesty, the King of Bavaria, upon Count Maximilian von Lerchenfeld-Koefering,

¹ The U.S. amendment called for deletion in art. III of the words "real and" preceding the words "personal property" in both instances where that phrase appears.

The text printed here is the amended text as proclaimed by the President.

² For a detailed study of this convention, see 4 Miller 671.

His Chamberlain, Envoy Extraordinary and Minister Plenipotentiary at the Royal Prussian Court, Commander of the Royal Order of the Knights of St. George, of the Order for Merit in Civil Service of the Bavarian crown, of St. Michael, Grand Cross of the Russian Imperial Order of St. Anne of the first Class, of the Royal Prussian Order of the Red Eagle of the first Class, Commander Grand Cross of the Royal Swedish Order of the North Star and Great Commander of the Royal Greek Order of the Saviour,—who after having exchanged their said full powers, found in due and proper form, have agreed to and signed the following Articles:

ARTICLE I

Every kind of *droit d'aubaine*, *droit de retraite* and *droit de détraction* or tax on emigration is hereby, and shall remain abolished between the two Contracting Parties, their States, citizens and subjects respectively.

ARTICLE II

Where, on the death of any person holding real property within the territories of one Party, such real property would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a term of two years to sell the same, which term may be reasonably prolonged according to circumstances, and to withdraw the proceeds thereof, without molestation, and exempt from all duties of detraction.

ARTICLE III^a

The citizens or subjects of each of the Contracting Parties shall have power to dispose of their personal property within the States of the other, by testament, donation, or otherwise, and their heirs, legatees, and donees, being citizens or subjects of the other Contracting Party, shall succeed to their said personal property, and may take possession thereof, either by themselves, or by others acting for them, and dispose of the same at their pleasure, paying such duties only as the inhabitants of the country where the said property lies shall be liable to pay in like cases.

ARTICLE IV

In case of the absence of the heirs, the same care shall be taken, provisionally, of such real or personal property as would be taken in a like case of property belonging to the natives of the country, until the lawful owner, or the person who has a right to sell the same according to Art. II, may take measures to receive or dispose of the inheritance.

^a See footnote 1, p. 7.

ARTICLE V

If any dispute should arise between different claimants to the same inheritance, they shall be decided in the last resort according to the laws, and by the judges of the country where the property is situated.

ARTICLE VI

But this Convention shall not derogate in any manner from the force of the laws already published, or hereafter to be published by His Majesty, the King of Bavaria, to prevent the emigration of His subjects.

ARTICLE VII

This Convention is concluded subject to the ratification of the President of the United States of America, by and with the advice and consent of their Senate and of His Majesty, the King of Bavaria, and the ratifications thereof shall be exchanged at Berlin within the term of fifteen months from the date of the signature hereof, or sooner if possible.

In witness whereof, the respective plenipotentiaries have signed the above articles, as well in English as in German, and have thereto affixed their seals.

Done in quadruplicata in the city of Berlin on the Twenty First day of January, one Thousand, Eight Hundred and Forty Five, in the sixty ninth year of the Independence of the United States of America, and the nineteenth of the reign of His Majesty, the King of Bavaria.

HENRY WHEATON [SEAL]

GRAF V LERCHENFELD [SEAL]